

Subpart I—Cooperation With the Office of Special Counsel

§ 516.69 Introduction.

This subpart prescribes procedures for cooperation with the Office of Special Counsel (OSC) when OSC is investigating alleged prohibited personnel practices or other allegations of improper or illegal conduct within DA activities.

§ 516.70 Policy.

(a) DA policy follows:

(1) Civilian personnel actions taken by management officials, civilian and military, will conform to laws and regulations implementing established merit system principles and will be free of any prohibited personnel practices.

(2) Management officials will take vigorous corrective action when prohibited personnel practices occur. Disciplinary measures under AR 690-700, Chapter 751, may be initiated after consultation and coordination with appropriate civilian personnel office and labor counselor.

(b) DA activities will cooperate with OSC in the following ways:

(1) Promoting merit system principles in civilian employment programs within DA.

(2) Investigating and reporting allegations of improper or illegal conduct forwarded to the activity by HQDA.

(3) Facilitating orderly investigations by the OSC of alleged prohibited personnel practices and other matters assigned for investigation to the OSC, such as violations of the Whistleblower Protection Act of 1989, the Freedom of Information Act, or the Hatch Act.

§ 516.71 Duties.

(a) *DA General Counsel.* The DA General Counsel is responsible for the following:

(1) Provide overall guidance on all issues concerning cooperation with OSC, including the investigation of alleged prohibited personnel practices and allegations of improper or illegal conduct.

(2) Review for adequacy and legal sufficiency each OSC report of investigation that must be personally reviewed by the Secretary of the Army.

(3) Ensure compliance with the Civil Service Reform Act of 1978 by obtaining a suitable investigation of allegations of improper or illegal conduct received from OSC. This includes compliance with time limits for reporting results of the investigation and personal review of the report by the Secretary of the Army when required.

(4) Forward to the DOD Inspector General (DODIG) copies of each allegation of improper or illegal conduct referred to DA by OSC.

(5) Delegate to The Judge Advocate General the authority to act on behalf of the DA General Counsel in all OSC investigations of prohibited personnel practices.

(6) Act upon requests for counsel from “accused” or “suspected” employees.

(b) *Chief, Labor and Employment Law Office.* The Chief, Labor and Employment Law Office, OTJAG (DAJA-LE) is responsible for the following:

(1) Act for TJAG as the Senior Management Official in cooperating with OSC. As Senior Management Official, the Chief, DAJA-LE, through TJAG, will be responsible to the DA General Counsel for administration of the policies and procedures contained in this chapter.

(2) Promptly inform the DA General Counsel of any OSC investigation and consult with the DA General Counsel on any legal or policy issue arising from an OSC investigation.

(3) Serve as the HQDA point of contact in providing assistance to OSC.

(4) Act as DA attorney-of-record in administrative matters initiated by OSC before the MSPB which arise from an OSC investigation. As DA attorney-of-record, the Chief, DAJA-LE, will file necessary pleadings and make necessary appearances before the MSPB to represent DA interests.

(5) Monitor ongoing OSC investigations within DA.

(6) Ensure that appropriate DA personnel are fully apprised of their rights, duties and the nature and basis for an OSC investigation.

(7) Review and prepare recommendations to the General Counsel concerning any OSC recommended corrective action referred to DA. Such review and recommendations will address